

★ AUG 31 2015 ★
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSEPH STROTHERS,

Petitioner,

-against-

SUPERINTENDENT LARKIN,

Respondent.

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TOWNES, United States District Judge:

Petitioner Joseph Strothers, appearing pro se, filed this action in April 2012 seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to Rule 4 of the Rules Governing § 2254 Cases, this Court conducted an initial review of the petition and determined that the petition appeared to be time-barred by the one-year statute of limitations set forth in the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”). (See ECF No. 3.) This Court then considered whether Petitioner could benefit from statutory or equitable tolling. Having found that Petitioner (1) could not benefit from statutory tolling and (2) made no argument to suggest a basis for equitable tolling, this Court directed him “to show cause by written affirmation, within 30 days from entry of this Memorandum and Order, why the petition should not be dismissed as time-barred by the AEDPA’s one year statute of limitations.”¹ (ECF No. 3.) That Memorandum and Order was entered on April 19, 2012. On May 4, 2012, the Petitioner requested an extension of time until June 6, 2012, to file his response, which this Court granted. (ECF Nos. 4, 5.)

Over three years have elapsed since this Court directed Petitioner to demonstrate why his petition should not be dismissed as time-barred, and Petitioner has not requested any additional extensions of time. Despite ample opportunity, Petitioner has submitted no response to support

¹ The Memorandum and Order attached an affirmation form for Petitioner’s convenience.

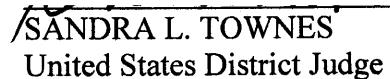
his petition. Accordingly, for the reasons stated in this Court's Memorandum and Order entered on April 19, 2012, the petition is dismissed as time-barred by the AEDPA's one-year statute of limitations. *See 28 U.S.C. § 2244(d).*

CONCLUSION

For the reasons set forth above and in this Court's Memorandum and Order entered on April 19, 2012, the petition for a writ of habeas corpus is dismissed as time-barred under 28 U.S.C. § 2244(d). As Petitioner has not "made a substantial showing of the denial of a constitutional right," a certificate of appealability will not issue. 28 U.S.C. § 2253(c)(2). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. *See Coppededge v. United States*, 369 U.S. 438, 444, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962). The Clerk of Court is respectfully directed to close this case.

SO ORDERED.

/s/ Sandra L. Townes


SANDRA L. TOWNES
United States District Judge

Dated: *August 31, 2015*
Brooklyn, New York